

### REMARKS

Claims 34-106 are currently pending in the present application. Of these claims, Claims 36, 37, 40-48, 57, 58, 61-69, 76-96 and 100 have been withdrawn from consideration. This leaves Claims 34-35, 38-39, 49-56, 59-60, 70-75, 97-99 and 101-106 currently under consideration in the present application. All of Claims 34-35, 38-39, 49-56, 59-60, 70-75, 97-99 and 101-106 currently stand rejected.

Claims 34, 55, 97, 99, 101, 102, 103 and 104 are currently amended.

### CLAIM REJECTIONS - 35 USC §102

The Examiner has rejected the claims as being anticipated by Rusz, et al., US 4,770,168 ('168). The Examiner states that Rusz, et al. teaches "in the least a housing, a chamber having an entry and exit port and a pharmacologic agent contained within the chamber and capable of being mixed with the gas. With regard to independent Claim 34 and dependent Claims 35, 39 and 49-54, Claim 34 has been amended to require a laparoscopic insufflator which is not shown by Rusz, et al. '168. Rusz, et al. '168 points out, at column 1, lines 5-10, that his invention relates to an anesthesia vaporizer for introducing anesthetic vapor into the breathing gas supplied by an anesthesia machine to the patient undergoing surgery ..." An anesthesia vaporizer uses a respiratory insufflator whose pressure varies from 0 to a level controlled by the breathing of the patient. This is unsuitable for the present invention, therefore, Claims 34, 35, 39 and 49-54 are not anticipated by Rusz, et al. '168.

With regard to independent Claim 55, and Claims 56, 59 and 60, it is pointed out that Claim 55 has been amended to require a laparoscopic insufflator, which is not shown by Rusz, et al. '168. For the reasons related above in regard to independent Claim 34, independent Claim 55 and thus, dependent Claims 56, 59 and 60 are all allowable.

Further, it is pointed out that Claim 55 requires a first quantity of a humidifying solution and a first quantity of a pharmacological agent. Rusz, et al. '168 discloses only an anesthetic agent which, by definition, is not a humidifying solution or a pharmacological agent.

With regard to independent Claim 97 and dependent Claim 98, it is pointed out that Claim 97 has been amended to require a laparoscopic insufflator, which is not shown by Rusz, et

al '168. In addition, it is pointed out that a carbon dioxide gas stream is used, which is not used by Rusz, et al. '168.

With regard to independent Claim 101, it is pointed out that Claim 101 has been amended to require a laparoscopic insufflator. A laparoscopic insufflator is not shown by Rusz, et al. '168 and therefore, Claim 101 is not anticipated.

With regard to independent Claim 102 and dependent Claim 103, it is pointed out that Claim 102 has been amended to require a laparoscopic insufflator, which is not shown by Rusz, et al. '168. Since, for a anticipation rejection to be proper, everything in the claim being rejected must be within the "four corners" of the reference. Claim 102 is not anticipated by Rusz, et al. '168. Further, it is pointed out that Claim 102 claims a first quantity of a solid phase pharmacological agent. Rusz, et al. '168 only deals with liquids.

With regard to independent Claim 104 and dependent Claims 105 and 106, it is respectfully pointed out that Claim 104 has been amended to require a laparoscopic insufflator. A laparoscopic insufflator is nowhere shown in Rusz, et al. '168 and, therefore, Claims 104-106 cannot be anticipated by Rusz, et al. '168.

#### CLAIM REJECTIONS – 35 USC §103

The Examiner has rejected Claims 34-35, 38-39, 49-56, 59-60, 70-75, 97-99 and 101-106 as being obvious in view of the combination of Bartels, et al., US 4,621,632 ('632), Daniell, et al., US 6,050,260 ('260) and Rusz, et al. '168.

With regard to Claims 34 and 35, it is pointed out that Claim 34 has been amended to require a laparoscopic insufflator which is nowhere found in Bartels, et al. '632, Daniell, et al. '260, or Rusz, et al. '168. Thus, the combination suggested by the Examiner will not produce the construction claimed.

Furthermore, all the arguments previously made concerning lack of motivation to combine are repeated herein, and specifically incorporated by reference. Since there is no motivation to combine and, even if combined, the claimed construction would not be produced. Claims 34-35 are not obvious, and must be allowed.

With regard to Claims 38 and 39, it is pointed out that these depend ultimately on Claim 34, which is allowable for the reasons discussed above. In addition, with regard Claim 39, it is

pointed out that none of the three references show an absorbent material positioned inside the chamber.

With regard to Claims 49-56, it is respectfully pointed out that Claims 49-54 depend ultimately on Claim 34, and are allowable for all the reasons discussed above in regard to Claim 34.

With regard to Claims 55 and 56, it is respectfully maintained that the amendment to require a laparoscopic insufflator, which is nowhere found in the art cited by the Examiner, renders these claims unobvious over the art cited. In addition, all of the arguments previously made regarding motivation to combine are repeated herein, and specifically incorporated by reference. Since there is no motivation to combine, and even if combined, the claimed construction is not produced, Claims 55 and 56 are not obvious in view of Bartels, et al. '632, Daniell, et al. '260 and Rusz, et al. '168.

With regard to Claims 59-60, it is pointed out that these claims ultimately depend on independent Claim 55, which is allowable for all the reasons discussed above in regard to Claim 55.

In regard to Claims 70-75, these claims all ultimately depend on Claim 55, which is now allowable for the reasons discussed above.

With regard to Claims 97-99, it is respectfully pointed out that the independent Claim 97 has been amended to require a laparoscopic insufflator. This amendment distinguishes the claim from Bartels, et al. '632, Daniell, et al. '260 and Rusz, et al. '168, or any combination thereof, all of which have respiratory insufflators, sometimes called pulmonary ventilators, whose pressure varies greatly as the pressure at the patient's breathing system varies (Rusz, et al. '168, column 38-39).

Thus, a combination of three constructions all having respiratory insufflators cannot produce a construction having a laparoscopic insufflator and, thus, cannot make Claims 97-99 obvious. Furthermore, there is no motivation to combine these three references, as discussed above.

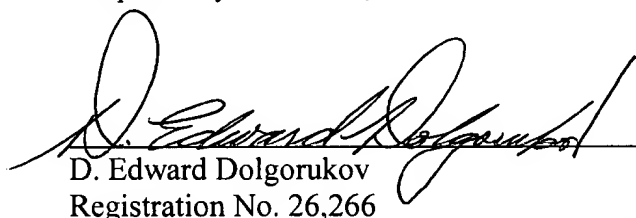
With regard to Claims 101-106, it is pointed out that independent Claim 101 has been amended to require a laparoscopic insufflator, and is allowable for the reasons discussed above.

Independent Claim 102 has amended to require a laparoscopic insufflator and is allowable for the reasons discussed above. In addition, it is pointed out that the claim requires "a

first quantity of a solid phase pharmacologic agent..." This is nowhere shown in the art and thus, Claims 102 and 103 are allowable. With regard to Claims 104-106, Claim 104 has been amended to require a laparoscopic insufflator, which defines over the prior art cited by the Examiner for the reasons discussed above.

In view of the above amendments, and the remarks explanatory thereof, a favorable reconsideration of the present application, and the passing of this case to issue is courteously solicited. If the present amendments have not placed the application in condition for allowance, a telephone interview is requested to expedite the prosecution.

Respectfully submitted,



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